

██████████,
Complainant,

v.

B & C HIDEOUT,
Respondent.

NOTICE OF FINDING

The Deputy Director of the Indiana Civil Rights Commission ("Commission"), pursuant to statutory authority and procedural regulations, hereby issues the following Notice of Finding with respect to the above-referenced case. Probable cause exists to believe that an unlawful discriminatory practice occurred. 910 IAC 1-3-2(b)

On April 13, 2011, ██████████ ("Complainant") filed a complaint with the Commission against B & C Hideout ("Respondent") alleging sex and disability discrimination in violation of ██████████ the Indiana Civil Rights Law (IC 22-9, et seq.). Complainant is an employee and Respondent is an employer as those terms are defined by the Civil Rights Law. IC 22-9-1-3(h) and (i). Accordingly, the Commission has jurisdiction over the parties and the subject matter.

An investigation has been completed. Both parties have submitted evidence. Based on the final investigative report and a full review of the relevant files and records, the Deputy Director now finds the following:

The issue presented to the Commission is whether Complainant was denied employment based on his sex or disability. In order to prevail on such a claim, Complainant must show that: (1) he is a member of a protected class; (2) he applied for and was qualified for the position; (3) Respondent denied him the position; and (4) a less-qualified female applicant was selected for the job or the position remained open.

Complainant clearly is a member of a protected class by virtue of his sex. Additionally, the parties agree that he is qualified to perform the duties of a bartender and that Respondent denied him that position. The evidence indicates that Respondent had not hired anyone for this position at the time this complaint was filed. The evidence demonstrates that Respondent did place an advertisement that expressed a preference for a female bartender. Respondent asserts that this was not its intention and that this preference was published in error. Respondent's contention is not worthy of credence, as it would be

difficult to mistakenly insert the word “female” in an online employment solicitation. Such a set of facts is sufficient to establish probable cause to believe that a violation of the Indiana Civil Rights Law has occurred.

A public hearing is necessary to determine whether a violation of the Indiana Civil Rights Law occurred as alleged herein. IC 22-9-1-18, 910 IAC 1-3-5 The parties may agree to have these claims heard in the circuit or superior court in the county in which the alleged discriminatory act occurred. However, both parties must agree to such an election and notify the Commission within twenty (20) days of receipt of this Notice, or the Indiana Civil Rights Commission will hear this matter. IC 22-9-1-16, 910 IAC 1-3-6

August 4, 2011
Date

Joshua S. Brewster, Esq.,
Deputy Director
Indiana Civil Rights Commission

Service list for
Notice of Finding

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